

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2147 of 2016

=====

Meera Kumari, wife of Guni Thakur, Resident of Village- Parbatta,
Block+P.S.- Gopalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Director Secondary Education, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Deputy Director, Secondary Education, Bihar, Patna.
4. The Regional Deputy Director, Education, Munger Division, Munger.
5. The District Superintendent of Education, Khagaria.
6. The Secretary, Pandit Saryug Hazari Balika Ucch Vidhyalaya Dumriya Bujurg, Parbatta, District- Khagaria.
7. The Principal, Pandit Saryug Hazari Balika Ucch Vidhyalaya, Dumriya Bujurg, Parbatta, District- Khagaria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Ojha, Advocate Mrs. Nutan Mishra, Advocate
For the State	:	Mr. Kinkar Kumar, SC-9

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 02-05-2018 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Learned counsel for the petitioner submits that the respondents have arbitrarily rejected the claim of the petitioner for regularization. From Annexure-3, it appears that the reason assigned for rejecting the claim of the petitioner was that at the relevant time the petitioner was under age. Counsel further submits that at the time of entering into the service of school in question, as a project school, there was no requirement that the incumbent should be above 18 years. The requirement of the



minimum or maximum age was applicable only when the Government took a policy decision to regularize the services on take over. With reference to Annexure-5, learned counsel submits that a Co-ordinate Bench of this Court referring to the judgment of the Full Bench case, has already held out that at the relevant time the appointment was made under the private Managing Committee before the school was taken over and as such the respondents are not justified in rejecting the claim of the petitioner on the ground of under age at the time of entering into the school service.

Considering the aforesaid facts and circumstances, this Court is of the considered view that the petitioner's case deserves to be considered for regularization and the order contained in Annexure-3 cannot sustain for the reason that at the time of entering in the service in a privately manage school, there was no requirement of minimum age for of entering in service. Accordingly, the order contained in Annexure-3 so far as the petitioner is concerned, is hereby quashed. Respondents are directed to considered the case of the petitioner for regularization and extend all benefits to the petitioner.

However, the petitioner shall not be entitled to salary for the period from 2008 to 31st of January, 2016 for the reason



that the petitioner has not approached this Court at the earliest. However, the period aforesaid shall be counted for other purposes including for grant of increment and post retiral benefits.

The respondents are directed to work out the entitlement of the petitioner and make payment of arrears as well as current salary within a maximum period of three months from today.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

